

UCIDA

Ulster County Industrial Development Agency

**Ulster County Industrial Development Agency
Minutes
November 21, 2012**

A regular monthly meeting of the Ulster County Industrial Development Agency was held at 8:00 a.m., Wednesday, November 21, 2012, Legislative Library, 6th Floor, Ulster County Office Building, 244 Fair Street, Kingston, NY.

The following agency members were present:

Paul Colucci	Assistant Chair/Assistant Secretary
Michael Horodyski	Assistant Chair/Assistant Secretary
Robert Kinnin	Assistant Chair/Assistant Secretary
James Malcolm	Assistant Chair/Assistant Secretary
John Morrow	Secretary
David O'Halloran	Chair
Steve Perfit	Treasurer

The following agency members were absent:

None.

UCDC Staff:

Linda Clark
Melinda Beuf

UCIDA Attorney and Bond Counsel:

A. Joseph Scott Hodgson Russ LLP

Additional Attendees:

Arianna Basco	Village of New Paltz Board Member
Len Bernardo	TLB Management
Jessica DiNapoli	Times Herald Record
Patricia Doxey	Daily Freeman
March Gallagher	Representing the Office of the County Executive
Michael Hein	Ulster County Executive
James Maloney	Assessor, Town of Ulster and Chair, Ulster County Economic Development and Tourism Committee
Nicholas Piazza	Hudson Valley Sportsdome
Adele Reiter	Chief of Staff/Office of the County Executive
Tim Rodgers	Representing the Town of New Paltz Planning Board
Sarah Robinson	Teal Becker and Chiaramonte, CPAs

Chair David O'Halloran called the meeting to order at 7:55 a.m.

PLEDGE OF ALLEGIANCE

The members of the Agency participated in the Pledge of Allegiance to the flag.

PUBLIC COMMENT

Chair O'Halloran opened the meeting for Public Comment. There being no individual(s) requesting the privilege of the floor, Chair O'Halloran closed the Public Comment segment of the Agenda.

MINUTES

Motion: Paul Colucci, seconded by Michael Horodyski, moved to approve the Minutes of the October 24, 2012 meeting. A copy of said Minutes is on file.

Vote: The motion was adopted.

FINANCIALS

Motion: John Morrow, seconded by Paul Colucci, moved to approve the Financials for the period ending October 31, 2012. A copy of said Financials is on file.

Vote: The motion was adopted.

TEAL BECKER AND CHIARAMONTE, CPAs

Sarah Robinson, an Audit Manager with Teal Becker and Chiaramonte, CPAs reported that they have been retained to perform the 2012 Audit for the UCIDA, as well as the UCCRC. Traditionally, the auditors appear before the Audit Committee prior to commencing the audit; however, it was requested that she address the entire membership of the Agency. Teal Becker and Chiaramonte are aware of the changes made to the organization, i.e. the retention of an outside accountant and as they perform their field work, they will take that under consideration when designing their audit procedures. This is an opportunity for the members of the Agency to raise any questions and/or issues that they may have. It was pointed out that the internal controls have, more than likely, improved.

Chair O'Halloran asked that the auditors affirm/review, on advice of bond counsel, the transfers between the UCCRC and the UCIDA; and if there are any recommendations for anything that must be done differently.

2016 BUDGET

Chair O'Halloran explained that when the Agency did their previous approval of the budget, we failed to include 2016.

Ms. Beuf stated that all she did was extend the budget out through 2016.

Motion: Steve Perfit, seconded by John Morrow, moved to approve the proposed 2012-2016 UCIDA Budget. A copy of said Budget is on file.

Vote: The motion was adopted.

PRESENTATION BY MICHAEL HEIN

Chair O'Halloran introduced County Executive Michael Hein who will discuss the proposed administration of the Agency for 2013. His remarks included, but were not limited to:

- Thanked the members of the Agency for their service to Ulster County
- Vision on the interface of the UCIDA with the County
 - Office of Business Services – working with the County Legislature on this
 - The model for UCDC and the model for economic development were reviewed; we are now at a point where things in economic development have to change.
 - Tourism in Ulster County, cut the funding because we were wasting county taxpayers dollars
 - Worked with the Tourism Advisory Board and the Lodging Coalition – working with businesses in the county to make them more successful. More input was needed from the business community on how the county could help. This was a huge change in dynamic.
 - Steady increase in hotel/motel tax over a three year period.
 - Recognized that this is the model that has been successful.
- It is not believed that Tourism alone is economic development. It speaks more to how we envision this role of economic development. Rather than what we have had in the past, where there was a huge board trying to make many decisions with multiple people/organizations pulling in different directions. A more unified approach is the only way that this can work; to work directly with the UCIDA.
- Behind the doors of the County Executive's office assistance has been given to 80-90 businesses in our community. Bureaucratic walls have been knocked down; it simply makes it a better organization to assist businesses to succeed.
- Structure – a partnership with the Legislature and the Legislative committee on Economic Development with Jim Maloney at its head is a partner in this process. The UCIDA is a pivotal tool for success.
- Administration – the County has accountants, financial clerks capable of doing ABO reporting. Currently the UCIDA pays \$85,000 to get this service.
- Currently there is a contractual agreement between the UCIDA and UCDC.
- There is no reason why the County could not perform this same function; they already have the accountants, clerks, etc.
- The county does not need to make a profit.
- There is also the ability of a singularity of mission
- For \$20,000/year the County will roll the funds right back into marketing Ulster County.
- The net effect of UCIDA dollars would be, not to fund employees, but to fund marketing for Ulster County businesses.

- There is confidence that this new model of the Office of Business Services can succeed. These are annual roll-overs and if it succeeds and the service is delivered, the Agency can renew the contract; if the service is not delivered and it doesn't meet the specifications of the Agency, then don't renew the contract.
- To ignore it from the very beginning and not give it an opportunity to succeed in a uniform manner is short-sighted.
- Economic development can be done better; that is why this very aggressive initiative was brought forward, working in partnership with the Ulster County Legislature (Ulster County Economic Development Committee) in conjunction with the UCIDA as a tool.

Discussion included, but was not limited to: the \$20,000 annual fee to the Agency, which would be rolled back into marketing Ulster County businesses; the fact that politics and/or partisan activities have never been a part of the Agency; the impartiality of the Agency as a fully integrated tool in the economic toolbox; UCDC is the broken component in the economic development picture-however it was the acceptable model at the time; the importance of uniformity of goal and mission; the appointment structure of the Agency and the importance of partnering with the Ulster County Legislature; a brief review of Dutchess and Orange counties economic development model, concern about the process as it relates to how new projects will be received at the county level, the location of the office, the failure of communication regarding projects and the dissatisfaction of the prior model; and the accountability of the Agency, etc.

Legislator James Maloney stated that the conversation being held is very good; it is very easy to kick UCDC as it goes out the door but you have to look at the reasons why. There was an economic downturn in 2008; the County Charter was approved effective January, 2009 and a County Executive elected. The County Executive took a very proactive approach and appointed a very aggressive person in the Office of Planning. He spoke very correctly; if a developer comes into Ulster County who do they go to. They go to the chief elected official of the municipality or the County Executive. Yes there were some problems with UCDC, but the director of UCDC and the planning person were bumping into each other. They weren't sure who was going to do the deals.

Now we are looking forward to create an Office of Business Services. We have all had conversations trying to put together a model, including representatives of UCDC. In the future, almost all the incentive payments and/or PILOTs will come through the Economic Development Committee. The decision is the Agency's to make and he will support whatever decision is made.

Chair O'Halloran asked if the Agency were to decide to hire a CEO/Clerk/Admin, how would that work with your plan.

County Executive Hein responded that they are going ahead with a unified front with bringing businesses to the county. He does have a preference; however, this board will make whatever decision they will make. He will not have an employee that did not report directly to the county executive branch sit inside this organization.

Mr. Colucci asked County Executive Hein to speak to his statement of ESD providing PILOTs and leasebacks.

County Executive Hein responded that the capacity does exist for ESD to provide PILOTs and leasebacks. The bigger question is why would that ever make sense. That would mean that there was a complete breakdown between the IDA relationship, the Legislature and the Office of County Executive.

Mr. Colucci asked if that is an option for the county.

County Executive Hein responded that would be the “nth” degree and not what they want.

County Executive Hein stated that he wished to make it clear that he cares and if a member has a question or needs additional information to just call.

CORRESPONDENCE

Fort Shandaken (The Emerson). Chair O'Halloran reported that correspondence was received from Fort Shandaken.

Ms. Beuf stated that the Emerson is being refinanced and as a lease holder, the UCIDA is on the title, therefore, they will need the Agency's permission for the new mortgage. They will probably ask for a mortgage abatement. In the past, there were several Fort Shandaken projects and there is a question as to the number of jobs that we should be using as a benchmark. She didn't have enough time to do the research as to whether the initial job numbers should be counted or the subsequent project(s) job numbers.

Chair O'Halloran stated that there was an original application in the late '90's; then they had a fire. There was a new application in 2006. We are trying to confirm that it was a new application; confirm that the previous application was terminated; and a new application was addressed. That information will be provided at the next meeting. There doesn't appear to be a lot of information.

Bond Counsel A. Joseph Scott stated that the only question that was posed to him was whether the IDA needed to take any action in connection with this refinancing. Because the UCIDA has an interest in the real estate and the bank wants all parties that have an interest in the real estate to sign any mortgage. We would be asked to sign the mortgage. It is fairly common; this IDA has done this in the past.

Michael Horodyski stated that as an Agency, we should look to quantify the actual economic development impact of a business. There is more to economic development than just purely the number of FTE's etc.

Chair O'Halloran responded that this has come up because of the many errors that have been discovered in previous ABO reporting. We want to make sure that we are not compounding the error. We as a board need to have our ducks in a row. The information will be available at the next meeting.

COMMITTEE REPORTS

Governance Committee. Committee Chair John Morrow reported that the committee will meet in December. Chairman O'Halloran requested a review of the Enforcement Policy as it pertains to project monitoring.

Audit Committee. Committee Chair Steve Perfit reported that the committee would meet next Tuesday.

Ready2Go. John Morrow deferred to March Gallagher for the report of the Ready2Go Committee. Ms. Gallagher reported that the committee had a conference call recently; the next meeting of the committee is scheduled for November 28, 2013 at 9:00 am. The goal of the meeting is to review materials for a second call for sites. Site plan approval has been received for Leading Edge Developers and hopefully by next month all the bills will be aggregated and the project came in \$20,00-\$30,000 under budget.

Chair O'Halloran asked in 2013 who will have control over the bank account – who will be administering the money in 2013?

Ms. Gallagher responded that the County would like to administer it through the County and create a separate account within the county's finances. Until that is formalized, and we are waiting for legislative approval for that structure, it will remain in the UCDC's accounts. UCDC's accounts are not going to evaporate overnight and they will remain in place after the first of the year.

PROJECTS

Wolf-tec/Stavo

Chair O'Halloran stated that Wolf-tec/Stavo is looking to close relatively soon. A few things have come up. They are communicating to this Agency that they were unaware of clawback provisions; that they were not told by those representing our benefits packages, that the PILOTs, the leaseback and the mortgage recording tax and any other benefits realized from the UCIDA were tied to jobs. Their position is that they should be tied to the investment and not the jobs; they have been pushing back. One inconsistency that has been found is that when discussing this with Ralph Ludwig and his representative that in our language in our clawback provisions/enforcement provisions of our contracts that Joe Scott prepared for closing, it referenced an enforcement threshold of 10%. In other words, if they fell below 10% they were considered underperforming. When those were written four or five years ago, that was the threshold that was written into that policy. Governance will be asked to review that. (It should be noted that the Agency's Enforcement Policy was correct Section B. Compliance) Our board, working with the ABO over the last two years, has used a threshold of 20%. The Chair has requested that Counsel Scott amend the contract for Wolf-tec and Stavo to reflect the new 20% level. He asked the board's approval of this.

Motion: John Morrow, seconded by Steve Perfit, moved to amend the two contracts, Stavo and Wolf-tec, to reflect a 20% threshold level for enforcement/clawback for underperformance.

Vote: The motion was adopted.

Chair O'Halloran proposed that the Governance Committee review a section to be added to the Agency's Application. He wanted the applicant, before they sign on the dotted line, to read this statement which refers to every portion of it, and makes them understand that there are enforcements and clawbacks. They are signing something that is going to last the life of their application. A copy of said draft is on file.

Additionally, it was requested that the Governance Committee review the Agency's marketing brochure for the purpose of stating that there are consequences if you don't live up to your commitments.

Counsel Scott stated that the level of due diligence in reviewing Agency's applications has significantly increased by Agency's staff. That due diligence has been specifically focused on job numbers that have been proposed on the Application. Those numbers should be "very hard" numbers. The event of default triggering under our prior policy was 10%, now it is 20%. If they fail at 20%, that is a significant failure of their projections that they were heavily questioned on when they completed their application. Under our policy, it is a "may", the Agency does not necessarily have to take enforcement action under our Enforcement Policy with respect to clawbacks or termination. The Agency has the ability to consider the circumstances and take action that you deem appropriate given the circumstances.

PROJECT MONITORING AND ENFORCEMENT

Chair O'Halloran stated that at the last meeting of the Agency, the Agency did adopt a policy dealing with under-performance. The Agency did go through discussion.

James Malcolm stated that projects should not be subject to anything that wasn't in place when you entered into it. The same way when you enter into it, knowing full well what the provisions are, you are subject to them. He did not think the Agency does their selves a big service by going back after people who signed on for something else.

Chair O'Halloran responded that the point was well made. He pointed out that what has changed since these applications came before us is the ABO. We did not change the rules, the ABO changed the rules. Project monitoring now has to be public information and also the ABO wants the next step; what are you doing about enforcement. This is the state coming down to the IDA, not us going to the state. Picture the other scenario, our ability for integrity within that our community. Go back to that same well, community members, the town board, school district, and those school board members, the last time you came before us you asked for a PILOT which would add 16 jobs to our community; it brought 2. Are they going to approve the next PILOT? That is the question you have to ask regarding accountability. He recognized that things have changed; unfortunately they are changing for us as well without our consideration. This ABO doesn't call up the IDA, effective today you are going to do this for new applicants; they pushed this back to old applicants as well.

TLB MANAGEMENT (a/k/a SKATETIME 209)

Chair O'Halloran stated that Len Bernardo was in attendance. At our last meeting, Mr. Bernardo presented and underperformance was discussed as well. Chair O'Halloran asked Ms. Beuf where we were with the underperformance review.

Ms. Beuf stated that there are two estimates; a copy of which is on file. The top estimate is the existing PILOT; the second estimate is assuming a "haircut" of 55%.

Chair O'Halloran stated 55% percent underperformance, which is 9 jobs currently as of the end of 2011, compared to the 20 jobs in PARIS, half of that, taking into consideration of the other benefits to the community, half of that is proposed to be the amendment moving forward, not backwards, for 2012, 2014, 2015 and 2016. A 27.5% reduction in benefits for years 2013, 2014, 2015, 2016, to better reflect the 9 jobs and not the 20. That is what is proposed.

Continuing Ms. Beuf stated that in essence it works out to a 36% opposed to a 50% PILOT. It is slightly under \$10,000 over the four years.

Chair O'Halloran stated that \$8,340 over four years \$2,100/per year approximate change in benefit.

Robert Kinnin questioned in 2015 if the numbers change to a positive

Chair O'Halloran responded that in 2012, for example, if they increase employment, the Agency will review, the benefit may be increased and we can absolutely increase to the original levels or some pro-rated portion in between.

Mr. Len Bernardo addressed the members of the Agency:

- He thought that the new policy does make sense in that you are letting the companies know what they are walking into initially
- In the contract, there was no jobs indicated whatsoever; the Application was talked about in a worksheet perspective.

- Right now he was nursing his business during this very bad economic times.
- He understood that this board is trying to make the best effort to make sure that companies come into communities and afford the jobs they talked within contract. To voluntarily ask to give money back; it was a bit of embarrassment to be asked publicly in the newspaper.
- The fact of the matter is that he does understand the Agency's perspective; he agrees whole heartedly moving forward.
- As it relates to Wolf-tec, if they agree to the 20% new number, to loose more jobs in this community in these tough economic times ... and the years that the Agency sat with prevailing wage that brought no new companies to this region.

Mr. Malcolm responded that that was a ridiculous statement. The economy was down. He felt the comment reflected badly on the Agency and wished to make his statement a part of the record.

Mr. Malcolm asked Mr. Bernardo with the policy as it is now, would he have entered into the process with the UCIDA knowing full well what it is now.

Mr. Bernardo responded if jobs, not tourism, was a criteria the project fit into the tourism category. If jobs were a part of it, we may not have taken it because we would not have known.

Mr. Malcolm stated that you will have to understand that the model as it was prior was deficit spending. A board cannot operate effectively for the taxpayers if you are in a mode of deficit spending and if you have someone reaping the benefits with the role of the dice and the house continually looses. He guaranteed him that if you back through the numbers; it was charitable if 65-70% of the applicants actually provided the jobs they said they were going to do. There are monies, or in "lieu of" that have been laid out there that have not been realized back to this community. The controls are necessary. As far as the prevailing wage issue, we will always be on opposing sides.

Mr. Steve Perfit stated that what the Agency is asking for is to do the right thing. Not that you haven't. To do the right thing, is not only be accountable to the ABO, but we are accountable to the county, the town and the school district and think of the impact of those full time jobs on your town that would bring in their kids, raise families in your town that would pay more taxes. Every town, county and school district in the state is under the gun to try to cut budgets.

Mr. Horodyski responded that you add nine jobs; you add nine families into the town. We all know that for the most part a family is a break even on a school district tax. You are getting benefit from a commercial ratable and not individuals moving in. The houses moving in doesn't help a school district.

Mr. Perfit replied that school districts are shrinking.

Mr. Horodyski stated he agreed. From a benefit standpoint, the jobs are one thing; if from a school district standpoint, kids after school, the Saturdays. He understood the jobs perspective, but the sales tax generated, the economic vitality of an area that is not necessarily robust should be considered.

Mr. Malcolm responded that jobs are tangible. How do we work that in so that we are not taking a shot at something that's a "what-if".

Chair O'Halloran asked members to refer back to the estimate sheet for TLB. Looking at the tax benefits provided to this particular applicant, it will show that the total tax benefits that were provided by the Agency in 2005 total \$256,000. It is demonstrating, to this community, the county, the town and school district who provided that \$256,000 the importance of sales tax revenue, the importance of the attraction aspect, demonstrates the importance of the nine jobs that are there and demonstrates the improvement of the land and let's not forget that was a terrible piece of land that was an eyesore that was made to look wonderful in the community of Accord. That \$256,000 represents the commitment by the community to the applicant. What is proposed by our Enforcement Policy is an \$8,000 change, to \$246,956 over four years. He thought that properly reflects the benefits that this community receives from Skatetime 209. It is a tremendous tourist draw.

Mr. Horodyski replied that he did not disagree. Look at the time we are bringing this to bear. If we were in 2006 and the economy was as hot as it could be, fine, we are bringing it in 2012 and he could appreciate small business owners saying that I'm at a zero margin now...a break even. It is a stress.

Chair O'Halloran stated that you do realize that the businesses to the right and left don't have these PILOTs. They are struggling through the same economy.

Mr. Horodyski responded that that was a fair comment as well.

Chair O'Halloran stated that this is wonderful recreational opportunity for the area with strict rules and regulations.

Mr. Horodyski stated that he wanted to be clear. He voted for the Enforcement Policy. He was in favor of having the ability to quantify to go back to business, but that does not take away from the fact that each one of these businesses are being impacted. He thought the way we look at it; it does take into consideration the full effect.

Mr. Bernardo stated that he believed that the PARIS system was a statistical database; not an enforcement database.

Motion: James Malcolm, seconded by Steve Perfit, moved to apply the Agency's Enforcement Policy and to reduce TLB Management's PILOT benefits by 27.5% for future years, noting that benefits received for prior years were not affected.

Vote: The motion was adopted. John Morrow voting no.

HUDSON VALLEY DOMICILE (a/k/a HUDSON VALLEY SPORTSDOME)

Counsel Scott presented a draft letter and proposed First Amendment to the PILOT Agreement for discussion regarding Hudson Valley Domicile. A copy of said draft is on file.

Page 3 of the amendment essentially changes the percentage of the abatement in the Table. If you look at 2012 you will see in the last two columns on the right-hand side, it is 50%, that is the normal PILOT abatement program. In 2013 that number has been increased to 72% to reflect the added reduction of the abatement if you will. The balance of the document provides some introduction as to what is going on and some technical issues that makes the document effective. The table is the only substantive change in the document.

Mr. Horodyski stated for the record that he would be abstaining from the discussion.

Mr. Nicholas Piazza stated that he looked at his contract, and in reviewing it, he found a blank page, there is nothing in this contract regarding employment. The 2002 work application did have information, where he lived, phone number

and some reference to the types of jobs that he might create. That is the only reference that he has submitted to the Agency regarding his project. He is confused; he grew up all his life hearing this thing called a grandfather clause. He felt that this would fall into this grandfather clause.

Chair O'Halloran pointed out that he will be authorized to sign these documents once approved. They will go to the applicant. The applicant will review and it will be reported back at the next meeting or two whether we have received them back or any additional discussion or correspondence with the applicant. If the applicant agrees, it is forwarded on to the taxing authorities for adjustment of the PILOT. If the applicant does not agree to a voluntary adjustment, it comes back to Agency. If you review the policy that we adopted last month, it provides the Agency the discretion to review it further and the opportunity, if we so choose, to terminate the entire PILOT as it currently exists. Those discussions will be held at a future date in the event the applicant does not voluntarily agree. These are board decisions. The last paragraph, last sentence of our adopted policy states, the Ulster County IDA may terminate based upon failure to reach a voluntary reduction in PILOT. The key word is may.

Motion: Robert Kinnin, seconded by Steve Perfit, moved to authorize the voluntary PILOT reduction for Hudson Valley Domicile and to forward said correspondence and voluntary First Amendment to Payment in Lieu of Tax Agreement to Hudson Valley Domicile.

Vote: The motion was adopted. Michael Horodyski abstained from the vote.

LLOYD PARK II

Mr. John Quinn representing Lloyd Park, II, addressed the members of the Agency. He stated that he had two buildings in Lloyd Park with two separate PILOT programs. Over the past five years, they have struggled to have the buildings filled out. They have been about 75% filled over the last four or five years; prior to that they were 95% to 100% full. He had good news. As of January 1st, they will be at 100% and hopefully, they will be able to get all this behind them. That would give them 94 jobs in both buildings. Lloyd Park II is the back building. They have had a lot of successes; people coming in relocating from other areas, expanding their businesses, etc. More recently, two people have taken space in the buildings that are anticipating growth. Things are starting to turn around a bit.

Chair O'Halloran responded that Lloyd Park II's application probably is the most challenging for the Agency. Every member recognizes that they have nothing to do with employment within the offices, other than leasing them space. Whether that company employs one person or thirty people it is not part of the lease agreement. The challenge for the Agency, should something similar to your project come before us, is that we certainly are going to create something different. Governance will have to work on something that will work for that particular scenario because you are in a unique circumstance, you are not the employer. It is great news that you will be fully occupied next year, which means that this voluntary agreement would only be in effect for one year ... 2013 and that's it. You can bring that discussion back to us; if you have the documents regarding the fulfillment and lease numbers, get them to the office as soon as possible because it may effect the Agency's decisions going forward.

Motion: Steve Perfit, seconded by John Morrow, moved to authorize the voluntary PILOT reduction for Lloyd Park II and to forward said correspondence and voluntary First Amendment to Payment in Lieu of Tax Agreement to Lloyd Park II.

Vote: The motion was adopted. Michael Horodyski abstained from the vote.

LLOYD PARK I

Chair O'Halloran stated that information has been received on Lloyd Park I involving a default status within its PILOT payment in 2010. In the Daily Freeman a notice was published that indicated that the land that the project resides on has outstanding tax payments for 2010 and 2012. They are odd amounts.

Mr. Quinn responded that the 2010 payment was an oversight on his part and will be taken care of as soon possible. In 2012, he has a tenant that does owe a large sum of money and that will be resolved at the end of this month.

Chair O'Halloran requested that the office be notified when the matters were resolved.

CEO REPORT

CEO Melinda Beuf addressed the members of the Agency and reported as follows:

- As directed, responded to the Town of New Paltz Planning Department regarding the Park Point project.
- 20 leads of various levels of interest
 - Potential medical arts complex, potential dorm facility in New Paltz, potential hotel facility
- PARIS – at the end of the year we will be discussing how to handle some of the issues that have come up regarding old projects.
- Bi-annual visits – completed 25, three are scheduled, three have not responded to requests.. Simulaids, Spotted Dog, Hudson River Valley LLC. One pending, the Institute for Family Health.
- Banking – all the signatories have been done.

OLD BUSINESS

A revised Shovel Ready contract will go out today to the Town of New Paltz.

NEW BUSINESS

Tim Rodgers, representing the Town of New Paltz Planning Board addressed the members of the Agency with reference to the Park Point project. Questions included, but were not limited to

Question: Does the Park Point project appear to be eligible for consideration as a dormitory project under the amended Uniform Tax Exemption Policy that was enacted in September?

Response: It is difficult to judge eligibility until an application has been received

Question: Does the for-profit nature of the developer of a dormitory project or the non-college nature of the owner of the property on which it will be located matter?

Response: There are two avenues for an applicant to pursue. (1) a for-profit PILOT request would be considered by the UCIDA and (2) a not-for-profit request would be considered by the UCCRC.

Mr. Rodgers stated that the challenge with this project is that it is not-for-profit land, with a for-profit developer building the property.

Chair O'Halloran responded that that happens a lot in state developments; the state owns the industrial park and a for-profit company sits on top of it. The underlying land may have no tax base, however, the improvements do. That is where the PILOTs or lease back, mortgage recording, or bonding comes into play. It happens constantly in the State of New York.

Mr. Rodgers responded so it seems that this type of application would come before your for-profit Agency.

Chair O'Halloran responded unless it was brought by the non-profits. In other words, if the owner of the land underneath brought the application to us and it was their development, it would go to the other Agency. There are very few benefits we can give on top of what they already have. The odds are it will come before the UCIDA.

Counsel Scott stated that that is what is going to happen here. What he understood is that the not-for-profit owners are going to ground lease the property to the for-profit entity and they will be the one making application to the UCIDA.

Mr. Rodgers asked that in the amended UTEP, there is a reference to the number of units determined for dormitory project units, how would units be defined if there are 2-bedroom apartments and 4-bedroom apartments.

Chair O'Halloran responded that we don't have the application; we don't know what they are proposing. We did give ourselves a spread from 450-750 so the fee would be reflective of the size.

Mr. Rodgers asked how the Agency up with the different ranges for dormitory, senior housing. etc.

Chair O'Halloran responded we looked at areas throughout the state on the advice of counsel and the Agency made a decision.

Mr. Rodgers asked if a portion of the project is used for faculty as opposed to exclusively students, how will the occupancy requirements be enforced by the UCIDA? How will the UCIDA determine if the developer of the project has the legal authority to restrict occupancy to students?

Chair O'Halloran responded he didn't know until the application was received. The Agency set conditions upon approval; just because we approve something that is an adopted matrix we can initiate all types of conditions which are binding; otherwise they risk their entire PILOT and face termination or default. He didn't know what those conditions would be until the application is received/reviewed.

Mr. Rodgers stated that it was implied that it was not an uncommon occurrence for a private developer to build on public land. He was curious about comparable examples where there is a time designated in the future where this project, he believed was 45 years, the private building would be given back or sold back to the university or public entity.

Chair O'Halloran responded that he wasn't familiar with those details.

Mr. Perfit stated our PILOT usually ends in ten years; it is a graduated tax benefit and then it ends and then it is at full tax.

Mr. Rodgers responded absolutely, but the way this project is working the private building will be held by the private developer and then in 45 years it is a leased back. Does this get taken into account?

Chair O'Halloran replied it sounds like the Agency's involvement would end well before 45 years.

Mr. Horodyski stated that the end game for where this ends as far as the give back would not come into the purview of the Agency. He did not think the resulting end of this property would be taken into consideration.

Mr. Rodgers responded wouldn't that matter in that the idea that the UCIDA is providing a catalyst for development and the idea is to get the project off the ground to support the developing infrastructure and then at some point the project would become 100% on the tax roles. So if it is only on the tax roles for a certain number of years, versus ... if you have an end date as to when it will it will officially become back to public property.

Chair O'Halloran asked what do you mean public?

Mr. Horodyski responded that he thinks what Mr. Rodgers is saying, you are leasing to the for-profit, the lease is only for a 45 year term. He was not sure that the result was for it ever to take it back.

Mr. Rodgers stated in this case the result is to take it back.

Chair O'Halloran asked who would take it back?

Mr. Horodyski responded the State University of New York.

Chair O'Halloran replied then you loose all those taxes. So then it goes to a 100% exemption in 45 years. That won't really affect us. We are dealing with the years prior within our PILOT.

Mr. Malcolm stated that we are not going to negotiate with a third party. We have a PILOT program out there, whatever SUNY New Paltz or the dormitory whatever entity they are entering into with, whatever they negotiate is outside our purview. As long as they follow the terms and conditions of the PILOT; they do this a lot because you can go around prevailing wage.

Mr. Perfit stated that basically a lease is an ownership interest in a property. Even though in 45 years the state gets reversion rights to that property, during the period of 45 years the tenant has ownership of that property.

Chair O'Halloran responded that during the gap from the PILOT to the 45 years, the town, school board and county get 100% of that money.

Mr. Rodgers replied that he completely understood that. The question is that in most projects you don't have this milestone at year 45 where it goes off the tax roles. Have there been other examples?

Mr. Horodyski responded that to be honest, he has never made a decision here at the Agency assuming the 45 year life of the business.

Mr. Malcolm stated there is no precedence for it with this Agency.

Chair O'Halloran stated that he felt that the members would feel that this is beyond our timeline. If it is a deviated PILOT, the local taxing authorities have a tremendous weight on the scale; if it is a standard PILOT we listened to your comment and the weight is very important to us, but it is not the same as a deviated PILOT. This is applied to all projects.

Mr. Rodgers asked with reference to clawbacks, what if the private developer sells the project to the public institution prior to the end.

Mr. Perfit responded that they can't; the Agency owns it. Before they enter into sale, the UCIDA owns it and they have to buy it back from us for \$1.00 so we see all the documents.

Chair O'Halloran stated that the Agency would have to sign off and determine if it is in the best interest of the community to do clawbacks or not.

Mr. Rodgers asked during your annual review process of PILOTs, would this be an example if the college initially provided police service, but at some point in the future the college ceases to provide that service, and the municipality has to provide it, is that something?

Chair O'Halloran stated what he thought Mr. Rodgers meant to say the private developer provides the security. We can only look at the payroll and the performance of the for-profit company you are referring to. We will not be looking at SUNY New Paltz's records.

Mr. Rodgers stated that the question has to do with the impact to the community.

Chair O'Halloran replied again this is a SUNY New Paltz issue.

Mr. Malcolm stated oh no. This is the interesting part. If you can make a case that the project is there to serve the public good then it may trigger a prevailing wage issue. It all depends on the application and how they look at it.

Chair O'Halloran responded it depends on the application; if the applicant places security as part of their application it will be reviewed by us. If they don't, it will not be reviewed by us. If the applicant is paying SUNY New Paltz to provide security on its' property, that is a contracted service that they have. We only review the employment of the for-profit. We do not review employment for outside entities or contracted entities.

Mr. Rodgers stated that he was coming from a different perspective.

Chair O'Halloran replied as a Planning Board you can make a condition regarding the security and who pays for it.

Mr. Rodgers asked if the PILOT would be allocated among affected tax jurisdictions, does the statute provide any opportunity for the UCIDA to vary the allocation to reflect the actual impact on the county, town, school district or special districts like water/sewer or fire.

Counsel Scott responded that there are multiple questions there. The special assessments are not covered by the PILOT. Water, sewer, lighting, that gets billed 100% to them. In terms of changing the allocation between the county, the school and the town, we can only do that if there is an approval by all three. Otherwise, the money that is collected will be allocated pro-rata based upon their individual tax rates.

Chair O'Halloran stated in this particular case this is a project designed for students. Very important to this board, there aren't students going into your school district, at cost. What we are really looking at is a piece of land that you currently get nothing, it is in a private trust. The improvement is where the PILOT would go if there was a PILOT if this Agency approved it. The condition within our dormitory approved UTEP will be that there will be no students entering your public school. Which is very important and he was sure that the planning board would have certain conditions as well.

Paul Colucci raised concern that there would no students in the public school, what if a professor

Chair O'Halloran replied that it will be addressed as a condition. The rates may have to be adjusted. Understand that the assumption is dormitory housing. Our dormitory UTEP is designed not to place a burden on the local school districts.

Chair O'Halloran asked for a status update from the Town Planning Board.

Mr. Rodgers responded that they have kept the public comment period open; it has been extended. They continue to review the environmental impact, storm water management, etc.

Chair O'Halloran have you declared SEQR? Was it a positive declaration under SEQR?

Mr. Rodgers responded he did not know.

New Paltz Village Board member Arianna Basco was introduced to the members of the Agency.

December Meeting Date. It was unanimously agreed that the December meeting of the Agency would take place on Wednesday, December 12, 2013.

EXECUTIVE SESSION

Motion: Steve Perfit, seconded by Robert Kinnin, moved to adjourn into Executive Session at 10:25 a.m. to discuss personnel matters.

Vote: The motion was adopted.

Motion: Steve Perfit, seconded by Robert Kinnin, moved to adjourn out of Executive Session at 10:35 a.m.

Vote: The motion was adopted.

No official action was taken during Executive Session.

ADJOURNMENT

Motion: Steve Perfit, seconded by John Morrow, moved to adjourn the meeting

Vote: The motion was adopted.

The meeting was adjourned at 10:40 a.m.

Respectfully submitted,

John Morrow
Secretary